

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: B. M. & Maude E. Ross)
Dist. 19, Map 57, Control Map 57, Parcel 9.00,) Blount County
S.I. 000)
Farm Property)
Tax Year 2005)

INITIAL DECISION AND ORDER
GRANTING MOTION TO DISMISS

Statement of the Case

The subject property is presently valued as follows:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$558,200	\$ -0-	\$558,200	\$ -
USE	\$ 22,400	\$ -0-	\$ 22,400	\$5,600

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 28, 2006 in Knoxville, Tennessee. The taxpayers were represented by Joe Smith. The assessor of property, Mike Morton, represented himself and was assisted by staff appraiser Barry Mathes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 22.35 acre tract located on Lamar Alexander Parkway in Maryville, Tennessee. Subject parcel was originally part of a larger tract owned by B. M. and Maude E. Ross. Following their deaths, the heirs began liquidating the land. On May 15, 2003, 8.62 acres were sold. On November 13, 2003 another 1.39 acres were sold. On February 15, 2005, the 22.35 acres at issue were sold.

The threshold issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the disputed 2005 appraised value was not appealed to the Blount County Board of Equalization.

The taxpayers' representative essentially testified that no appeal was made to the Blount County Board of Equalization for two reasons. First, although the assessment change notice was received, the heir handling the taxes did not realize that the \$558,200 appraisal constituted the market value for rollback purposes. According to Mr. Smith, it was not until the rollback tax notice was received that the taxpayers realized they were being taxed on the disputed appraisal. Second, the taxpayer's representative stated that he contacted the realtor to forward the assessment change notice to the buyer, but was told that it would not be necessary.

The assessor maintained that this appeal should be dismissed. The assessor argued that the taxpayer received proper notice and failed to appeal to the Blount County Board of Equalization. Moreover, Mr. Mathes noted that rollback taxes were previously assessed and paid in conjunction with the May 15, 2003 sale of 8.62 acres. Thus, the taxpayers were familiar with the entire rollback tax procedure before the most recent sale even occurred.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc., Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). *See also John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Blount County Board of Equalization.

Respectfully, the administrative judge finds the taxpayers failed to establish that a circumstance beyond their control was the reason for their failure to appeal to the Blount County Board of Equalization. The administrative judge finds that ignorance of the law has never been found to constitute reasonable cause under Tenn. Code Ann. § 67-5-1412(e). Moreover, the administrative judge finds the taxpayers' purported ignorance puzzling given the "smooth handling" of the rollback taxes levied after the May 15, 2003 sale. The administrative judge finds the realtor's representation that the buyers did not need the assessment change notice irrelevant to the issue of reasonable cause.

Based upon the foregoing, the administrative judge finds that the taxpayers failed to establish reasonable cause and this appeal must be dismissed for lack of jurisdiction. Accordingly, the administrative judge finds it unnecessary to address the issue of value.

ORDER

It is therefore ORDERED that this appeal be dismissed for lack of jurisdiction and the following value and assessment remain in effect for tax year 2005:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$558,200	\$ -0-	\$558,200	\$ -
USE	\$ 22,400	\$ -0-	\$ 22,400	\$5,600


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of March, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Joe Smith
Mike Morton, Assessor of Property